

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

FRANK POLIVKA, on Behalf of Himself and
All Others Similarly Situated,

Plaintiff,

v.

Case No. 05-CV-0297 (BSJ)(MHD)

WALTER E. AUCH, FRANK K. REILLY,
EDWARD M. ROOB, ADELA CEPEDA, J.
MIKESELL THOMAS, MARGO N.
ALEXANDER, UBS FINANCIAL SERVICES,
INC., UBS GLOBAL ASSET MANAGEMENT
AMERICAS, INC., UBS GLOBAL ASSET
MANAGEMENT (NEW YORK), INC., SSGA
FUNDS MANAGEMENT, INC., MARSICO
CAPITAL MANAGEMENT, LLC,
DELAWARE INVESTMENTS, WESTWOOD
MANAGEMENT CORPORATION,
INSTITUTIONAL CAPITAL CORPORATION,
ICM ASSET MANAGEMENT, INC., ARIEL
CAPITAL MANAGEMENT, LLC, and JOHN
DOES NO. 1 THROUGH 100

Defendants.


JURY TRIAL DEMANDED

NOTICE OF DISMISSAL OF WALTER E. AUCH, FRANK K. REILLY, EDWARD M.
ROOB, ADELA CEPEDA, J. MIKESELL THOMAS, UBS FINANCIAL SERVICES,
INC., UBS GLOBAL ASSET MANAGEMENT AMERICAS, INC., SSGA FUNDS
MANAGEMENT, INC., MARSICO CAPITAL MANAGEMENT, LLC, DELAWARE
INVESTMENTS, WESTWOOD MANAGEMENT CORPORATION, INSTITUTIONAL
CAPITAL CORPORATION, ICM ASSET MANAGEMENT, INC. and ARIEL CAPITAL
MANAGEMENT, LLC

Pursuant to Fed. R. Civ. 41(a), plaintiff hereby dismisses WALTER E. AUCH, FRANK K. REILLY, EDWARD M. ROOB, ADELA CEPEDA, J. MIKESELL THOMAS, UBS FINANCIAL SERVICES, INC., UBS GLOBAL ASSET MANAGEMENT AMERICAS, INC., SSGA FUNDS MANAGEMENT, INC., MARSICO CAPITAL MANAGEMENT, LLC, DELAWARE INVESTMENTS, WESTWOOD MANAGEMENT CORPORATION, INSTITUTIONAL CAPITAL CORPORATION, ICM ASSET MANAGEMENT, INC. and ARIEL CAPITAL MANAGEMENT, LLC as parties to this action, which has not been certified as a class action. This dismissal is without prejudice. Plaintiff is not dismissing his claims against UBS GLOBAL ASSET MANAGEMENT (NEW YORK) and MARGO N. ALEXANDER.

Dated: June __, 2005.

RESPECTFULLY SUBMITTED,



Gary Klein (GK-5632)
Edward S. Bosek (ESB - 4320)
WEITZ & LUXENBERG, P.C.
180 Maiden Lane
New York, New York 10038-4925
(212) 558-5500
(212) 344-5461 fax

Randall K. Pulliam
BARON & BUDD, P.C.
3102 Oak Lawn Ave., Suite 1100
Dallas, Texas 75219-4281
(214) 521-3605
(214) 520-1181 fax

J. Allen Carney
Hank Bates
CAULEY BOWMAN CARNEY & WILLIAMS, LLP
11311 Arcade Dr., Suite 200
Little Rock, Arkansas 72212
(501) 312-8500
(501) 312-8505 fax

Dated: _____

SO ORDERED:

United States District Judge